

§ 62-193. Disposition of certain unused easements.

(a) The underlying fee owner of land encumbered by any easement acquired by a utility company, whether acquired by purchase or by condemnation, on which construction has not been commenced by the utility company for the purpose for which the easement was acquired within 20 years of the date of acquisition, may file a complaint with the Commission for an order requiring the utility company to terminate the easement in exchange for payment by the underlying fee owner of the current fair market value of the easement.

(b) Upon receipt of the complaint, the Commission shall serve a copy of the complaint on each utility company named in the complaint, together with an order directing that the utility company file an answer to the complaint within 90 days after service.

(c) If the utility company agrees to terminate the easement, the utility company shall submit to the Commission, within the time allowed for answer, an original plus four copies of a statement of the utility company's agreement to terminate the easement.

(d) If the utility company does not agree that the easement should be terminated, the utility company may request a determination from the Commission as to whether the easement is necessary or advisable for the utility company's long-range needs for the provision of utilities to serve its service area, and whether termination of the easement would be contrary to the interests of the using and consuming public. The Commission may conduct a hearing on the matter, which shall be conducted in accordance with Article 4 of this Chapter. Either party may appeal the Commission's decision in accordance with Article 5 of this Chapter. The burden of proof shall be on the utility company to show that the easement is necessary or advisable for the utility company's long-range needs for the provision of utilities to serve its service area and that termination of the easement would be contrary to the interests of the using and consuming public.

(e) If the underlying fee owner and the utility company cannot reach a mutually agreed upon fair market value of the easement, whether terminated voluntarily or by order of the Commission, the Commission shall make a request to the clerk of superior court in the county where the easement is located for the appointment of commissioners to determine the fair market value of the easement in accordance with the process set forth in G.S. 40A-48.

(f) If the Commission decides that the easement should not be terminated, the underlying fee owner may not file a complaint with the Commission under this section regarding the same easement for a period of five years from the date of the decision.

(g) For purposes of this section, the term "utility company" means a public utility as defined in G.S. 62-3(23), a municipality providing utility services, an authority organized under the North Carolina Water and Sewer Authorities Act, a sanitary district, a metropolitan water district, a metropolitan sewerage district, a metropolitan water and sewerage district, a county water and sewer district, or an electric or telephone membership corporation. (2020-18, s. 1(a).)